

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF MISSOURI

| | | |
|----------------------|---|---------------------------------|
| Thomas R. McLean, MD |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | Civil Action No. 4:20-CV-593-BP |
| Jeffery W. Bruce, |) | |
| |) | |
| Defendant. |) | |

PLAINTIFF'S MOTION TO EXTEND THE STAY DUE TO MR. BRUCE'S DEATH

Comes now, Thomas R McLean, MD, as the *per se* Plaintiff, to respectfully request that the Court extend the STAY ORDER for five additional weeks because so many events controlling the appointment of a personal representative for Mr. Bruce are out of Dr. McLean's control. In the remainder of this motion Dr. McLean details his efforts to mitigate the impact of these events; and explains why Dr. McLean is virtually certain that substituted service upon Mr. Bruce's personal representative will be completed on or before November 20, 2022.

1. Mr. Bruce committed suicide on May 22, 2022. ECF 202.
2. Dr. McLean's claims against Mr. Bruce survive his death. MO REV. STAT. § 431.130 (contract claims); MO REV. STAT. § 537.020 (tort claims).
3. Missouri law provides that the personal representative of Mr. Bruce's estate should be substituted as the defendant; and this Court has ruled that the appropriate Missouri court should appoint a personal representative for Mr. Bruce. ECF 205.
4. This Court extended the stay to serve the personal representative of Mr. Bruce's estate until October 10, 2022. ECF 208.
5. A week after this Court extended the stay (ECF 208), on September 1, 2022, Dr. McLean, through his attorneys with the Paths Law Firm, filed a Motion in the Cass County Court (22CA-PR00299) to have a probate estate opened, and a personal representative appointed, for Mr. Bruce.

6. The Cass County Court did not complete its processing of the September 1st Motion until September 19, 2022, at 2:34 PM.
7. On September 21, 2022, the Paths Law Firm notified Margaret L Bruce (Ms. Bruce), Mr. Bruce's widow, that a probate estate for her late husband had been opened. Exhibit I.¹
8. On September 22, 2022, the Cass County Court set a hearing regarding the appointment of a personal representative for Mr. Bruce for November 9, 2022 at 10:15 AM. Exhibit II.
9. On September 22, 2022, the Paths Law Firm notified Ms. Bruce of the scheduled hearing to appoint a personal representative for Mr. Bruce's estate. Exhibit II.
10. On September 29, 2022, the Paths Law Firm sent formal notice of the Cass County hearing to all interested parties including Ms. Bruce. It is anticipated that all interested parties have now been served. Exhibit III.
11. As of today, Ms. Bruce (or her representative) has not indicated that she would be willing to serve as Mr. Bruce's personal representative.
12. On November 9, 2022, a personal representative will be appointed for Mr. Bruce.
13. After a personal representative is appointed for Mr. Bruce's estate, Dr. McLean will
 - a. on November 10, 2022, file a motion with this Court for substituted service upon Mr. Bruce's personal representative,
 - b. after the Court issues an order for substituted service,² an executed summons will need to be obtained from the Clerk of the Court; and then
 - c. Dr. McLean will arrange for personal service upon Mr. Bruce's personal representative.
14. Dr. McLean has a good faith belief that all of the steps in ¶13 can be completed within seven days of the Court issuing its Order for substituted service upon Mr. Bruce's personal representative; and that Dr. McLean can file a return of service upon Mr. Bruce's personal representative ideally before November 20, 2022.

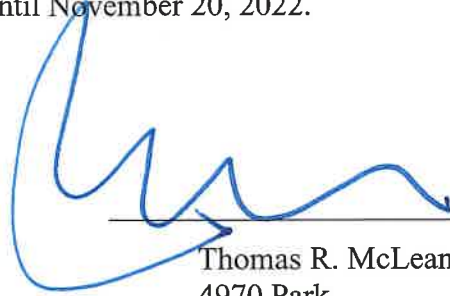
¹ The email address used to contact Ms. Bruce (peggylmbruce@gmail.com) is the email address Ms. Bruce provided on May 25, 2022 to Cass County Sheriff's Officers who investigated Mr. Bruce's suicide.

² It is anticipated that the Court can issue the order for substituted service within a matter of days.

WHEREFORE Dr. McLean has exercised due diligence to effect personal service upon Mr. Bruce's personal representative and many of the events necessary to appoint a personal representative for Mr. Bruce are not in Dr. McLean's control, Dr. McLean respectfully requests the court to extend the stay in this case until November 20, 2022.

Respectfully Submitted,

October 5, 2022



Thomas R. McLean, Plaintiff *pro se*
4970 Park
Shawnee, KS, 66216
913-525-5526
tmcllc1999@gmail.com

Exhibit I

Estate of Jeffrey W. Bruce, Case #22CA-PR00299

Inbox

R

Ryan Foley Wed, Sep 21, 12:05 PM (1 day ago)

to peggylmbruce, bcc: me

Good afternoon,

As a courtesy we are informing you that we have filed a Petition to Require Administration in the above-referenced case. At this time you may wish to consider seeking legal advice from an attorney of your choosing. The Petition to Require Administration has not yet been set for hearing by the court, however notice will be provided to you once it has.

Sincerely,
Ryan

Ryan D. Foley
Attorney

Paths Law Firm
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Paths
— L A W F I R M —

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Exhibit II

R

Ryan Foley 2:16 PM (38 minutes ago)

to **peggyImbruce**, bcc: me

Good afternoon,

The court has set a hearing date for the above referenced case on November 9, 2022, at 10:15 am. As a potential heir of the estate you have the right to file to be Personal Representative, formerly referred to as Executor or Administrator, of the estate. If you wish to do so, please seek and retain counsel to represent you in those proceedings. If you or someone else entitled to open the estate do not do so prior to the hearing, the court will make an appointment instead.

Sincerely,
Ryan

Ryan D. Foley
Attorney

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Lee's Summit, MO 64064
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www.pathslawfirm.com

Exhibit III

R

Ryan Foley Mon, Oct 3, 4:35 PM (2 days ago)

to **Jennifer**, me

Good afternoon,

Nobody has yet responded to us, however after receiving the Notice from the court we mailed it out on September 29, 2022. All interested parties should be receiving a copy of the notice in the mail soon, likely before the end of the week.

Sincerely,
Ryan

Ryan D. Foley
Attorney

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5008 NE Lakewood Way
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